

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARL TURNER,

Plaintiff,

v.

Case No. 23-cv-12225
Hon. Matthew F. Leitman

RYAN CONNOR, et al.,

Defendant.

/

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS' MOTION TO DISMISS (ECF No. 13.)**

On July 2, 2024, the Court held a hearing on Defendants' Motion to Dismiss in Lieu of Answer (ECF No. 13). For the reasons stated on the record, the motion is **GRANTED IN PART AND DENIED IN PART** as set forth below.

The motion is **GRANTED** with respect to the following claims in the Second Amended Complaint, and these claims are **DISMISSED**:

- Count I – Illegal Search and Seizure Article I, § 11 of the Michigan Constitution of 1963 (against Defendants Messina and Haggard). (*See Plaintiff's Sec. Amended Cmpl., ECF No. 12, PageID.208.*)
- Count II – Right to Bear Arms, Article I, § 6 of the Michigan Constitution of 1963 (against all Defendants). (*See id., PageID.209.*)

- Count III – 42 U.S.C. § 1983, Violation of the Second Amendment to the United States Constitution (against all Defendants). (*See id.*)
- Count V – 42 U.S.C. § 1983, Violation of the Fifth and Fourteenth Amendment – Substantive Due Process (against all Defendants). (*See id.*, PageID.212.)
- Count VI – 42 U.S.C. § 1983, Violation of the Fifth and Fourteenth Amendment – Procedural Due Process (against all Defendants). (*See id.*, PageID.214.)
- Count VII – Intentional Infliction of Emotional Distress (against all Defendants). (*See id.*, PageID.215.)

The motion is **DENIED** with respect the following claims:

- Count IV – 42 U.S.C. § 1983, Violation of the Fourth Amendment – Unreasonable Seizure (against Defendants Messina and Haggard). (*See id.*, PageID.211.)
- Count VIII – Claim and Delivery (Replevin) MCL 600.2920 (against all Defendants).¹ (*See id.*, PageID.216-217.)

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: July 2, 2024

¹ To the extent that this claim seeks return of property, it is moot. The portion of the claim seeking damages remains alive in the action.

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 2, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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